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8 **IN THE UNITED STATES DISTRICT COURT**
9 **FOR THE DISTRICT OF NEVADA**

10 SOUTH FORK BAND COUNCIL OF
11 WESTERN SHOSHONE OF NEVADA;
12 TIMBISHA SHOSHONE TRIBE; WESTERN
13 SHOSHONE DEFENSE PROJECT; and
14 GREAT BASIN RESOURCE WATCH,

15 Plaintiffs,

16 v.
17 UNITED STATES DEPARTMENT OF THE
18 INTERIOR; UNITED STATES BUREAU OF
19 LAND MANAGEMENT; GERALD M.
20 SMITH, District Manager, Battle Mountain
21 District Office,

22 Defendants.

23 Case No. 3:08-cv-0616-LRH (RAM)

24 **JOINT STIPULATION OF**
25 **CONFIDENTIALITY AND**
26 **[REDACTED] ORDER**

27 Plaintiffs South Fork Band Council of Western Shoshone of Nevada, Te-Moak Tribe of
28 Western Shoshone Indians of Nevada, Timbisha Shoshone Tribe, Western Shoshone Defense
Project, and Great Basin Resource Watch (“Plaintiffs”), Defendants United States Department of
the Interior (“DOI”), United States Bureau of Land Management, Gerald D. Smith, District
Manager, Battle Mountain Field Office (“Defendants”), and Defendant-Intervenor Barrick
Cortez, Inc. (“Defendant-Intervenor”) have agreed to the following:

29 In order to prepare their cases, the parties will need to access information in the
30 administrative record compiled by DOI regarding its decision approving an expansion to the
31 Cortez Joint Venture. Defendants assert that the documents listed in Exhibit A may contain
32 4832-0138-8548.1

1 information regarding historic or archaeological resources subject to protection from disclosure
 2 pursuant to the National Historic Preservation Act, 16 U.S.C. § 470w-3, Archaeological
 3 Resources Protection Act, 16 U.S.C. § 470hh(a), or 43 C.F.R. § 7.18. The parties are interested in
 4 preventing harm to such resources and impediments to the use of such sites by religious
 5 practitioners. This Joint Stipulation applies to documents (in whatever form) listed in Exhibit A.
 6 However, the terms and conditions of this Joint Stipulation shall not apply to any of the
 7 documents listed in Exhibit A which are shown to have been obtained through legitimate means
 8 other than the Defendants' production of the administrative record in this case.

9 To address these concerns the parties agree to the following:

10 1. The parties shall have access to the documents contained in Exhibit A (hereinafter
 11 "Protected Documents").

12 2. The parties shall not use the Protected Documents or their contents for any purpose
 13 other than this litigation, including any appeals or subsequent remands. No person having access
 14 to the Protected Documents solely by virtue of the Defendants' production of the administrative
 15 record in this case shall make public disclosure of them or their content without further order of
 16 this Court.

17 3. If a party receives a request, made pursuant to any federal or state law, from any
 18 person not subject to this Joint Stipulation for access to, or copies of, any documents provided to
 19 the party pursuant to this Joint Stipulation, the party shall not provide such access or copies but
 20 shall refer such request to DOI for consideration under applicable federal law.

21 4. The Protected Documents may be disclosed to the Court and to the parties in this
 22 litigation as attachments to briefs filed in these Court proceedings and may be utilized in
 23 depositions or for other permissible discovery in this case or in any related administrative
 24 proceedings. This Joint Stipulation is not intended to prohibit introduction of these Protected
 25 Documents at a court hearing, trial or other proceeding in this case as allowed under the Federal
 26 Rules of Evidence. When filed as attachments to briefs with the Court, the Protected Documents
 27 shall be filed under seal unless otherwise ordered by the Court.

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1 5. The Protected Documents may be disclosed only to the parties to this litigation, or
 2 their affiliates, the attorneys of record for the parties, persons in the employ of such attorneys and
 3 expert witnesses retained by the parties having a need for the information in the performance of
 4 their duties. Except for the Court and its employees, and the employees of DOI, all individuals
 5 having access to the Protected Documents and all individuals to whom these Protected
 6 Documents or the information therein are disclosed shall be required to sign a copy of the
 7 Acknowledgment of Joint Stipulation form attached hereto as Exhibit B indicating that they have
 8 read and agree to abide by the terms of this Joint Stipulation. Each counsel of record will send to
 9 the attorney of record for Defendants a list of all such attorneys or members of the firm so
 10 designated. Signed acknowledgment forms shall be retained by counsel for Defendants and be
 11 available upon request to attorneys of record and the Court.

12 6. All individuals subject to this Joint Stipulation who have access Protected
 13 Documents solely as a result of the Defendants' production of the administrative record in this
 14 case shall return or certify the destruction of any and all such Protected Documents, copies or
 15 reproductions, in whole or in part, thereof, including but not limited to any transcriptions or hand-
 16 drawn copies of any maps in their possession to counsel for Defendants within thirty days of the
 17 termination of this litigation, including all applicable appeals or remands. The obligation to return
 18 or destroy shall occur prior to the termination of this litigation when an individual or entity is no
 19 longer a party or when an attorney or expert is no longer retained to work on this case, whichever
 20 comes earlier. Individuals returning documents under any circumstance shall certify in writing
 21 that the documents, copies and reproductions, in whole or in part, have been returned or have
 22 been destroyed.

23 7. This Joint Stipulation does not constitute a ruling on the question of whether any
 24 particular record is admissible and does not constitute any ruling on any potential objection to the
 25 admissibility of any record, other than objections based on the National Historic Preservation Act,
 26 16 U.S.C. § 470w-3, Archaeological Resources Protection Act, 16 U.S.C. § 470hh(a), or 43
 27 C.F.R. § 7.18.

1 8. Pursuant to the Court's Order of March 12, 2009, Defendants are permitted to file
2 the administrative record on flash drive subject to objection by any party and reconsideration
3 upon objection by any party as well as by the Clerk's Office staff. The administrative record was
4 filed on June 1, 2009. The Protected Documents were included on a separate cd-rom disc
5 designated as containing confidential documents and filed under seal.

6 9. This Joint Stipulation shall survive the termination of this case and is binding for
7 all time without further order of the Court.

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1 Dated: July 13, 2009,

Respectfully submitted,

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6 Attorneys for Defendant-Intervenors

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8 The Court hereby APPROVED this Joint Stipulation and it is SO ORDERED, this 14th
9 day of July, 2009.



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12 UNITED STATES MAGISTRATE JUDGE
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**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

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4 SOUTH FORK BAND COUNCIL OF WESTERN
5 SHOSHONE OF NEVADA; TIMBISHA SHOSHONE
6 TRIBE; WESTERN SHOSHONE DEFENSE
PROJECT; and GREAT BASIN RESOURCE WATCH

CV-N-08-00616-HDM-RAM

7

Plaintiffs,

EXHIBIT A

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9 UNITED STATES DEPARTMENT OF THE INTERIOR;)
UNITED STATES BUREAU OF LAND)
MANAGEMENT; GERALD M. SMITH, District Manager,)
-0 Battle Mountain District Office)

- 1

Defendants.

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13 Defendants assert that following documents, identified by the administrative record
14 bates-stamp number range, may contain information regarding historic or archaeological resources
15 subject to protection from disclosure pursuant to the National Historic Preservation Act, 16 U.S.C.
16 § 470w-3, Archaeological Resources Protection Act, 16 U.S.C. § 470hh(a), or 43 C.F.R. § 7.18:
17 3-39, 49-87, 88-98, 120-127, 323-382, 394-404, 1107-1152, 1451-1469, 1470-1480, 1481-1489,
18 1864-2724, 2756-2805, 3457-3461, 3600-3693, 4744-4794, 5610-5675, 5676-5743, 6174-6294,
19 6531-6913, 7177-7188, 7189-7197, 9144-9163, 9403-9597, 11040-11200, 11810-11825,
20 17571-17784, 18298-18317, 31548-31792, 36481-36481, 38928-39141, 42236-42403,
21 47292-47329, 47330-47354, 51004-51016, 55463-55736.

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SOUTH FORK BAND COUNCIL OF
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Plaintiffs,

v.

UNITED STATES DEPARTMENT OF THE
INTERIOR; UNITED STATES BUREAU OF
LAND MANAGEMENT; GERALD M.
SMITH, District Manager, Battle Mountain
District Office,

Defendants.

Case No. CV-N-0800616-HDM-RAM

ACKNOWLEDGMENT OF JOINT STIPULATION

I, _____, hereby acknowledge that I have read and understand the Joint Stipulation entered in this action on _____, 2009. I hereby agree to be bound by the terms of the Order. Specifically,

1. I agree that I will use the Protected Documents disclosed to me solely by virtue of the Defendants' production of the administrative record in this case or copies of the Protected Documents subject to the Joint Stipulation only for purposes of this litigation including any appeals and not for any other purpose;

2. I agree that any Protected Documents disclosed to me solely by virtue of the Defendants' production of the administrative record in this case, as well as all copies thereof, which are in my possession will be destroyed or returned to counsel for Defendants within 30 days after the termination of my work on this case or the termination of this litigation, including any appeals, whichever comes earlier;

3. I agree that I will disclose Protected Documents only to the Court, the parties to this case and their attorneys of record, persons in the employ of such attorneys, and any experts or consultants hired for this case by the parties or their attorneys and who (with the exception of the

1 Court and its employees and the employees of the Department of the Interior) have signed an
2 Acknowledgment Form like this one;

3 4. I agree that I will abide by all terms of the Joint Stipulation; and

4 5. I hereby confirm that my duties under the Joint Stipulation shall survive the
5 termination of this case and are binding upon me for all time.

6 Dated: _____

9 _____
(Signature)

11 _____
(Printed Name)